

Message Text

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C O N F I D E N T I A L STATE 138404

E.O. 11652: GDS

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SUBJECT:BACKGROUND ON PANAMA CANAL NEGOTIATIONS

REF: GENEVA 4672

1. FOLLOWING IS A BRIEFING PAPER ON STATUS OF PANAMA CANAL
NEGOTIATIONS. BEGIN TEXT.

OUR PRIMARY INTEREST IN PANAMA IS TO ASSURE THAT THE CANAL
REMAINS OPEN, SECURE, EFFICIENT AND NEUTRAL. THE 1903
TREATY, WHICH PROVIDES FOR THE EXERCISE BY THE U.S. OF
SOVEREIGN-LIKE RIGHTS ON PANAMA SOIL, IN PERPETUITY, MET
THOSE OBJECTIVES DURING THE FIRST PART OF THE 20TH CENTURY.
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PANAMA HAS NOW BECOME SO DISSATISFIED WITH THE SITUATION
IN THE CANAL ZONE THAT THE 1903 TREATY THREATENS RATHER
THAN PROTECTS U.S. INTERESTS. IN ADDITION, OTHER LATIN
AMERICAN COUNTRIES WIDELY PERCEIVE THE 1903 TREATY AS
UNFAIR TO PANAMA.

THE MANAGEMENT OF THE CANAL, REQUIRING THE SERVICES OF

SOME 14,000 EMPLOYEES (4,000 AMERICANS; 10,000 PANAMANIAN)
WOULD BE EXTREMELY DIFFICULT IN A HOSTILE ATMOSPHERE.

PRESIDENT CARTER HAS MADE THE CONCLUSION OF AN ACCEPTABLE
CANAL TREATY A PRIORITY FOREIGN POLICY OBJECTIVE. HE HAS
EMPHASIZED THAT ANY NEW TREATY MUST PROTECT THE CONTINUING
U.S. SECURITY AND COMMERCIAL INTEREST IN A CANAL THAT IS
OPEN TO ALL NATIONS ON A NON-DISCRIMINATORY BASIS AND AT
REASONABLE COST.

NEGOTIATIONS HAVE BEEN UNDER WAY SINCE LATE 1964. AGREE-
MENTS CONCLUDED IN 1967 WERE REJECTED IN 1970 BY THE
PANAMANIAN GOVERNMENT WHICH CAME TO POWER FOLLOWING THE
1968 COUP. ANOTHER ROUND OF NEGOTIATIONS BROKE DOWN IN
LATE 1972.

THE CURRENT PHASE OF THE NEGOTIATIONS COMMENCED IN
1973 AND FOCUSED INITIALLY ON THE CONCLUSION OF A STATE-
MENT OF PRINCIPLES WHICH SECRETARY KISSINGER AND FOREIGN
MINISTER TACK SIGNED IN PANAMA ON FEBRUARY 7, 1974. THE
STATEMENT OF PRINCIPLES IS INTENDED AS A GUIDE TO THE
NEGOTIATORS AND WAS REAFFIRMED BY SECRETARY VANCE AND
FOREIGN MINISTER BOYD ON JANUARY 31, 1977.

THE NEGOTIATORS HELD FOUR ROUNDS OF TALKS IN 1976 AND MET
IN PANAMA FOR 10 DAYS IN FEBRUARY OF THIS YEAR. AN
INFORMAL SESSION OF THE CHIEF NEGOTIATORS WAS HELD IN
WASHINGTON MARCH 13. THE MOST RECENT ROUND COMMENCED
MAY 9 IN WASHINGTON, RECESSED MAY 31 AND BEGAN AGAIN
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JUNE 8. THE OBJECTIVE OF THE NEGOTIATORS IS FIRST TO
MOVE CLOSER TO CONCEPTUAL AGREEMENT ON THE OUTSTANDING
ISSUES AND THEN TO COMMENCE THE TREATY DRAFTING PROCESS.

DISCUSSIONS BETWEEN THE TWO SIDES SINCE JANUARY HAVE
FOCUSED ON THE FOLLOWING ISSUES:

- THE DURATION OF THE NEW TREATY.
- THE NATURE AND FUNCTIONS OF THE ADMINISTRATIVE
ORGANIZATION WHICH WILL OPERATE THE CANAL DURING THE LIFE
OF THE TREATY.
- THE STATUS OF THE AMERICAN AND PANAMANIAN EMPLOYEES OF
THE ENTITY.
- AN IDENTIFICATION OF THE LANDS AND WATERS WHICH ARE
NECESSARY FOR THE SUCCESSFUL OPERATION OF THE CANAL.
- PROVISIONS TO ASSURE THE PERMANENT NEUTRALITY OF THE
CANAL.

WHILE FINAL AGREEMENT IN PRINCIPLE ON THESE ISSUES HAS
NOT YET BEEN REACHED, THE NEGOTIATORS

BELIEVE THAT SUBSTANTIAL PROGRESS HAS BEEN MADE. THE

PRESENT DISCUSSIONS ARE FOCUSED ON THE DETAILS OF THESE SUBJECTS. IN ADDITION THE NEGOTIATORS WILL BE ADDRESSING ONE OTHER ISSUE WHICH UNTIL THIS TIME HAS NOT BEEN THE SUBJECT OF FORMAL DISCUSSIONS -- THE ECONOMIC BENEFITS WHICH PANAMA IS TO RECEIVE FOR THE RIGHTS WHICH IT GRANTS TO THE U.S.

THE OBJECTIVE OF THE NEGOTIATORS DURING THE PRESENT ROUND OF DISCUSSIONS IS TO COME TO CONCEPTUAL AGREEMENT ON THESE ISSUES. ONCE THAT AGREEMENT HAS BEEN REACHED AND THE RESPECTIVE GOVERNMENTS HAVE HAD AN OPPORTUNITY TO REVIEW THE NEGOTIATOR'S WORK, THE PROCESS OF TREATY DRAFTING WILL COMMENCE. WHILE IT IS NOT POSSIBLE TO PREDICT WITH ACCURACY WHEN A NEW TREATY WILL BE READY FOR THE INITIATION OF RATIFICATION PROCEDURES IN BOTH COUNTRIES, THE NEGOTIATORS

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TIATORS BELIEVE THAT AN AGREEMENT THIS YEAR, POSSIBLY BEFORE THE END OF THE SUMMER, IS POSSIBLE.

END BRIEFING PAPER TEXT.

2. STATEMENT OF PRINCIPLES SIGNED BY SECRETARY OF STATE HENRY KISSINGER AND FOREIGN MINISTER JUAN ANTONIO TACK IN PANAMA CITY, FEBRUARY 7, 1974. BEGIN TEXT.

THE UNITED STATES OF AMERICA AND THE REPUBLIC OF PANAMA HAVE BEEN ENGAGED IN NEGOTIATIONS TO CONCLUDE AN ENTIRELY NEW TREATY RESPECTING THE PANAMA CANAL, NEGOTIATIONS WHICH WERE MADE POSSIBLE BY THE JOINT DECLARATION BETWEEN THE TWO COUNTRIES OF APRIL 3, 1964, AGREED TO UNDER THE AUSPICES OF THE PERMANENT COUNCIL OF THE ORGANIZATION OF AMERICAN STATES ACTING PROVISIONALLY AS THE ORGAN OF CONSULTATION. THE NEW TREATY WOULD ABROGATE THE TREATY EXISTING SINCE 1903 AND ITS SUBSEQUENT AMENDMENTS, ESTABLISHING THE NECESSARY CONDITIONS FOR A MODERN RELATIONSHIP BETWEEN THE TWO COUNTRIES BASED ON THE MOST PROFOUND MUTUAL RESPECT. SINCE THE END OF LAST NOVEMBER, THE AUTHORIZED REPRESENTATIVES OF THE TWO GOVERNMENTS HAVE BEEN HOLDING IMPORTANT CONVERSATIONS WHICH HAVE PERMITTED AGREEMENT TO BE REACHED ON A SET OF FUNDAMENTAL PRINCIPLES WHICH WILL SERVE TO GUIDE THE NEGOTIATIONS IN THE EFFORT TO CONCLUDE A JUST AND EQUITABLE TREATY ELIMINATING ONCE AND FOR ALL THE CAUSES OF CONFLICT BETWEEN THE TWO COUNTRIES.

THE PRINCIPLES TO WHICH WE HAVE AGREED, ON BEHALF OF OUR RESPECTIVE GOVERNMENTS, ARE AS FOLLOWS:

1. THE TREATY OF 1903 AND ITS AMENDMENTS WILL BE ABROGATED BY THE CONCLUSION OF AN ENTIRELY NEW INTEROCEANIC CANAL TREATY.

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2. THE CONCEPT OF PERPETUITY WILL BE ELIMINATED. THE NEW TREATY CONCERNING THE LOCK CANAL SHALL HAVE A FIXED TERMINATION DATE.

3. TERMINATION OF UNITED STATES JURISDICTION OVER PANAMANIAN TERRITORY SHALL TAKE PLACE PROMPTLY IN ACCORDANCE WITH TERMS SPECIFIED IN THE TREATY.

4. THE PANAMANIAN TERRITORY IN WHICH THE CANAL IS SITUATED SHALL BE RETURNED TO THE JURISDICTION OF THE REPUBLIC OF PANAMA. THE REPUBLIC OF PANAMA, IN ITS CAPACITY AS TERRITORIAL SOVERIEGN, SHALL GRANT TO THE UNITED STATES OF AMERICA, FOR THE DURATION OF THE NEW INTEROCEANIC CANAL TREATY AND IN ACCORDANCE WITH WHAT THAT TREATY STATES, THE RIGHT TO USE THE LANDS, WATERS AND AIRSPACE WHICH MAY BE NECESSARY FOR THE OPERATION, MAINTENANCE, PROTECTION AND DEFENSE OF THE CANAL AND THE TRANSIT OF SHIPS.

5. THE REPUBLIC OF PANAMA SHALL HAVE A JUST AND EQUITABLE SHARE OF THE BENEFITS DERIVED FROM THE OPERATION OF THE CANAL IN ITS TERRITORY. IT IS RECOGNIZED THAT THE GEOGRAPHIC POSITION OF ITS TERRITORY CONSTITUTES THE PRINCIPAL RESOURCE OF THE REPUBLIC OF PANAMA.

6. THE REPUBLIC OF PANAMA SHALL PARTICIPATE IN THE ADMINISTRATION OF THE CANAL, IN ACCORDANCE WITH A PROCEDURE TO BE AGREED UPON IN THE TREATY. THE TREATY SHALL ALSO PROVIDE THAT PANAMA WILL ASSUME TOTAL RESPONSIBILITY FOR THE OPERATION OF THE CANAL UPON THE TERMINATION OF THE TREATY. THE REPUBLIC OF PANAMA SHALL GRANT TO THE UNITED STATES OF AMERICA THE RIGHTS NECESSARY TO REGULATE THE TRANSIT OF SHIPS THROUGH THE CANAL AND OPERATE, MAINTAIN, PROTECT AND DEFEND THE CANAL, AND TO UNDERTAKE ANY OTHER SPECIFIC ACTIVITY RELATED TO THOSE ENDS, AS MAY BE AGREED UPON IN THE TREATY.

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7. THE REPUBLIC OF PANAMA SHALL PARTICIPATE WITH THE UNITED STATES OF AMERICAN IN THE PROTECTION AND DEFENSE OF THE CANAL IN ACCORDANCE WITH WHAT IS AGREED UPON IN THE NEW TREATY.

8. THE UNITED STATES OF AMERICA AND THE REPUBLIC OF PANAMA, RECOGNIZING THE IMPORTANT SERVICES RENDERED BY THE INTEROCEANIC PANAMA CANAL TO INTERNATIONAL MARITIME TRAFFIC, AND BEARING IN MIND THE POSSIBILITY THAT THE PRESENT CANAL COULD BECOME INADEQUATE FOR SAID TRAFFIC, SHALL AGREE BILATERALLY ON PROVISIONS FOR NEW PROJECTS WHICH WILL ENLARGE CANAL CAPACITY. SUCH PROVISIONS WILL BE INCORPORATED IN THE NEW TREATY IN ACCORD WITH THE CONCEPTS ESTABLISHED IN PRINCIPLE 2.

END STATEMENT OF PRINCIPLES TEXT. CHRISTOPHER

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